

REMARKS

The above amendments and following remarks are submitted within the 60 day priority period under 37 C.F.R. 1.116 in response to the pending Final Official Action of the Examiner mailed April 10, 2007. Having addressed all objections and grounds of rejection, claims 1-21, being all the pending claims, are now deemed in condition for allowance. Entry of this amendment and reconsideration to that end is respectfully requested.

The Examiner has objected to the drawings as failing to show the claimed "version property", "dataset", "user session", and "comparator" elements. Applicants respectfully traverse this ground of rejection. As to the alleged claimed terms "user session" and "comparator", the Examiner's objection is based upon clearly erroneous findings of fact, because the pending claims do not contain these terms.

With regard to the claimed "version property", the Examiner was previously directed to Fig. 13 and corresponding description in Applicants' specification at page 32, Fig. 9 provides the reader with a "sample dataset" as indicated at page 27, line 1. In response thereto, the Examiner has stated:

The Applicant's argument **a** is not persuasive because the Applicant argued "version property" is directed (sic) to Fig. 13 and but (sic) the drawing fails to show where is said plurality of data objects that are associated with a version property as claim (sic) recited. Further, the claim(s) recite(s) an apparatus

or system but there are no drawing (sic) to support for (sic) claim as an apparatus or the system.

It is respectfully submitted that this response is incomprehensible. However, to the extent that the Examiner wishes to view the claimed "version property", he should review Fig. 13 and corresponding description at page 32 of Applicants' specification. To the extent that the Examiner bases his objection on a paraphrase of Applicants' claims rather than the claims themselves, he is in error as a matter of law. Finally, to the extent, the Examiner wishes to view the hardware of the overall preferred mode, it is respectfully submitted that he consult Fig. 1 and corresponding description at pages 16-17.

Apparently, the Examiner has not yet reviewed Fig. 3 which presents a listing of a plurality of typical dataset objects. It is respectfully suggested that he do so. Thus, the pending objections to the drawings are respectfully traversed.

Claim 4 has been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for use of the term "said user". In response thereto, claim 4 has been amended as suggested by the Examiner.

Claims 1-21 have been rejected under 35 U.S.C. 101 as being drawn to non-statutory subject matter. In response thereto, independent claims 1, 6, 11, 16, and 21 have been amended as suggested by the Examiner. Most significantly, the amendments rely upon Fig. 1 and pages 15-17 of Applicants' specification.

Claims 1-7, 11-13, 16-18, and 21 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Application No. 2001/0042073, published in the name of Saether et al (hereinafter referred to as "Saether"). The ground of rejection is respectfully traversed as to the amended claims for the following reasons.

Furthermore, the Examiner continues to allege that claims 1, 6, 11-12, 16-17, and 21 are "underdressed". This ground of rejection is respectfully traversed as representing a finding not cognizable under controlling law. It is assumed that this is not a mere typographical error, because this clear error of law has been previously indicated to the Examiner. Apparently, claims 1, 6, 11-12, 16-17, and 21 now remain finally rejected upon the newly established basis of being "underdressed".

The standards for a finding of anticipation during examination are specified in MPEP 2131, which provides in part:

TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH
EVERY ELEMENT OF THE CLAIM

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). **"The identical invention must be shown in as complete detail as is contained in the ... claim."** *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). (emphasis added)

The rejection is respectfully traversed because "the identical invention" is not shown by Saether "in as complete detail as is contained in the claims" as is required by MPEP 2131.

Applicants' invention as disclosed and claimed is a data processing system for efficiently accessing shared JavaScript objects within a multi-user environment by reducing the overhead required to maintain object/database property synchronization. A version is associated with each object to indicate whether any particular requested access is associated with the most current properties of the object. Each user has a version list which indicates whether any particular object properties need be updated before access. The version list is maintained in faster and more available memory than the actual object to enhance efficiency. The users of Applicants' invention are involved in the maintenance of a data base.

Saether is not particularly pertinent, because it is directed to maintenance of computer programs. Paragraph [0001] states:

This application relates.....more specifically, to enabling the version of each source file stored on heterogeneous content servers to be automatically updated. (Emphasis added)

In other words, Saether is a software development and maintenance tool (see paragraph [0002]).

This basic difference in purpose and objective of Saether and Applicants results in substantial differences in structure as

one might suspect. As a result, Saether has no "dataset", "dataset object", "JavaScript object", or "JavaScript dataset object" as claimed. Therefore, to make his rejections, the Examiner improperly paraphrases Applicants' claims rather than addressing the actual claim language utilized by Applicants. This is apparent by addressing Applicants' invention as actually claimed.

Claim 1, as amended for example, has six basic elements. The first element is "an enterprise server containing a data base having a plurality of data objects". Instead of addressing this element, the Examiner paraphrases: "within a data base containing said dataset object". Clearly, this is not the claimed element. Furthermore, the Examiner cites paragraphs [0008, 0009, and 0085] of Saether which contains a substantial amount of text which never even mentions a "dataset" as claimed. It does not mention a "dataset", because Saether discloses a software development/maintenance tool rather than a data base manipulation tool as claimed.

Having previously provided this argument to the Examiner, he has responded stating:

.....so it is inherent that Saether discloses
JavaScript Object, the data presents as (sic) object.

Thus, even though the Examiner alleges that Saether "expressly" discloses the claimed element, he admits that it does not but further alleges "inherency" without making the showings required

by MPEP 2112. As a result, Saether does not meet the requirements of MPEP 2131, because it admittedly does not make the "express" disclosure and because the Examiner cannot prove inherency within the requirements of MPEP 2112, which he is required to do as a matter of law.

The second claimed element is "a version property associated with one of said plurality of data objects". Again, because Saether does not have the claimed element, the Examiner impermissibly paraphrases: "...containing an assumed version property (current version) (see figs. 1-6)". And again, the Examiner cites copious amounts of material (i.e., Figs. 1-6 of 7), no portion of which disclosing the claimed "plurality of data objects" or the claimed "version property associated" therewith. This is to be expected, because Saether is concerned with software development and maintenance rather than data base development and maintenance.

Applicants have previously presented this argument to the Examiner. However, his response is incomprehensible.

The amended third claimed element is "a terminal having a session which generates a request involving access to said one of said plurality of data objects". Having no "plurality of data objects", Saether cannot have the claimed "session which generates a request involving access" thereto. Therefore, the Examiner again improperly paraphrases the claim stating:

"requesting access to said dataset object from said user session". And again the Examiner cites extensive materials (i.e., paragraphs 0035 and 0038, along with claim 8?) which are totally unrelated to Applicants' claimed element or the Examiner's paraphrase of Applicants' claimed element.

The Examiner admits that Saether cannot meet the requirements of this amended limitation by finding that "controller 105a)" generates the alleged request.

The fourth claimed element is limited by the claimed "version list" associated with the claimed session. Because Saether does not have the claimed "session", it cannot have the claimed "version list" associated therewith. Thus, the Examiner again attempts to paraphrase the limitation and cites irrelevant material which does not address Applicants' invention.

After paraphrasing the fifth and sixth elements, the Examiner cites nearly three columns of irrelevant material. The material is legally irrelevant, because it does not address Applicants' claimed invention.

As a result of Saether having none of the six claimed elements of amended claim 1 and virtually none of the irrelevantly paraphrased elements, the rejection of amended claim 1, and all claims depending therefrom, is respectfully traversed.

Claims 2 and 7 depend from claims 1 and 6, respectively, and are further limited by "wherein said user session further

comprises a JavaScript object". Saether has no "JavaScript object" as claimed. Certainly, Saether does not have the claimed "session". Therefore, the Examiner cites paragraph [0084] of Saether which parenthetically mentions "JavaScript" but says nothing of the claimed "JavaScript object". As explained above, Saether is a software development and maintenance tool, so it mentions "JavaScript". However, because it is not concerned with data base development and maintenance, it has not mention of the claimed "JavaScript object". The rejection of claims 2 and 7 is respectfully traversed.

Claim 3 depends from claim 2 and is further limited by "wherein each of said plurality of data objects has a separate version property associated therewith". Saether has no "plurality of data objects" and the Examiner has not even alleged that it does. Therefore, Saether cannot have the further limitations of claim 3. The rejection of claim 3 is respectfully traversed.

Claims 4-5, 9-10, 13, and 18 depend from claim 3, 8, 12, and 17, respectively, and further limit the network for coupling the claimed "user" or "requesting means" to the claimed "data base". Because Saether has neither the claimed "user"/"requesting means" or the "data base", it cannot possibly meets the further limitations of claims 4-5, 9-10, 13, and 18. Therefore, the Examiner cites Fig. 1 of Saether which shows the Internet

coupling several "servers" together. This citation is legally irrelevant, because it does not address Applicants' claimed invention. The rejection of claims 4-5, 9-10, 13, and 18 is respectfully traversed.

Claim 5 depends from claim 4 and is further limited by "wherein each of said version properties is stored within said data base". Saether does not have the claimed "data base" and the Examiner does not allege that it does. Therefore, Saether cannot have the further limitations of claim 5. The rejection of claim 5 is respectfully traversed.

Claims 9 and 10 depend from claim 8. The Examiner admits at page 8 of the pending official action that Saether does not meet the limitations of claim 8 from which claims 9 and 10 depend. Therefore, Saether cannot anticipate claims 9 and 10 as a matter of law and as specifically admitted by the Examiner. Thus, the rejection of claims 9 and 10 is respectfully traversed as inconsistent with controlling law.

Notwithstanding the differences in statutory, judicial, and administrative law governing patentability and examination of claims 1, 6, 11, 16, and 21, in addition to the actual differences in limiting claim elements, the Examiner has again apparently refused to examine claims 6, 11, 16, and 21 in contravention of controlling law. The rejection of claims 6, 11, 16, and 21, and all claims depending therefrom, is respectfully

traversed for failure to be examined in accordance with controlling law.

Claims 1-7, 9-13, 16-18, and 21 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Application No. 2006/0184589, published in the name of Lees et al (hereinafter referred to as "Lees"). The ground of rejection is respectfully traversed as to the amended claims for the following reasons.

Though deemed highly unlikely, Lees is even less pertinent to Applicants' claimed invention than Saether. Therefore, the Examiner again attempts to paraphrase Applicants' claims and again cites irrelevant material which does not address Applicants' claimed invention. In addition, the Examiner refuses to even mention the unique limitations of claims 2-7, 9-13, 16-18, and 21. The rejection of claims 1-7, 9-13, 16-18, and 21, and all claims depending therefrom, is respectfully traversed as being improper and inadequately examined.

Claims 8, 14-15, and 19-20 have been rejected as unpatentable over Saether in view of Applicant Admitted Prior Art (AAPA). This ground of rejection is respectfully traversed for failure of the Examiner to present a *prima facie* case of obviousness.

To make a *prima facie* case of obviousness, MPEP 2143 requires the Examiner to provide evidence and argument showing: 1) motivation to make the alleged combination; 2) reasonable

likelihood of success of the alleged combination; and 3) all claimed elements within the alleged combination. The Examiner has failed to make any of these three required showings. Therefore, because the Examiner has not made a *prima facie* case of obviousness, Applicants need not and indeed cannot offer appropriate evidence and argument in rebuttal.

As to the requirement to show motivation, the Examiner concludes:

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify Saether et al.'s system by using the Mapper data base management system structure in order to have data base management system in an efficient, multi-user environment for the stated purpose has been well known in the art as evidenced by teaching of AAPA (see first paragraph, page 2).

However, Saether has no data base management system at all.

Furthermore, the Examiner does not allege that it does.

Therefore, there can be no motivation *per se* for improve the efficiency of Saether's data base management system by making it the claimed MAPPER system.

The Examiner does not venture any showing of reasonable likelihood of success as required by MPEP 2143. However, he could not do so, because of the readily apparent incompatibilities of AAPA and Saether.

Finally, the Examiner fails to show all of the claimed elements. In making his findings, the Examiner clearly erroneously states:

However, **AAPA discloses** a first memory which is faster than a second memory wherein data base is stored and Mapper data base management system (see page 2-3).
(emphasis added)

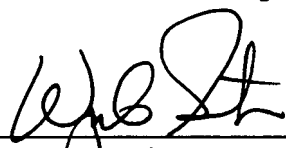
As the Examiner is well aware, there is no showing at page 2-3 or elsewhere of the alleged "AAPA discloses" any different memories, much less the claimed difference in speed. The rejection of claims 8, 14-15, and 19-20 is respectfully traversed for failure of the Examiner to make any of the three showings required by MPEP 2143.

Having thus responded to each objection and ground of rejection, Applicants respectfully request entry of this amendment and allowance of claims 1-21 being the only pending claims.

Please charge any deficiencies or credit any overpayment to Deposit Account No. 14-0620.

Respectfully submitted,
Barbara A. Christensen et al.
By their attorney,

Date June 11 2007



Wayne A. Sivertson
Reg. No. 25,645
Suite 401
Broadway Place East
3433 Broadway Street N.E.
Minneapolis, MN 55413
(612) 331-1464